

1 A bill to be entitled
2 An act relating to family law; amending s. 61.071,
3 F.S.; specifying that a court may not use certain
4 presumptive alimony guidelines in calculating alimony
5 pendente lite; amending s. 61.08, F.S.; providing
6 definitions; requiring a court to make specified
7 findings before ruling on a request for alimony;
8 providing for determination of presumptive alimony
9 range and duration range; providing presumptions
10 concerning alimony awards depending on the duration of
11 marriages; providing for imputation of income in
12 certain circumstances; providing for awards of nominal
13 alimony in certain circumstances; providing for
14 taxability and deductibility of alimony awards;
15 specifying that a combined award of alimony and child
16 support may not constitute more than a specified
17 percentage of a payor's net income; providing for
18 termination and payment of awards; amending s. 61.14,
19 F.S.; providing that a party may pursue an immediate
20 modification of alimony in certain circumstances;
21 revising factors to be considered in determining
22 whether an existing award of alimony should be reduced
23 or terminated because of an alleged supportive
24 relationship; providing for burden of proof for claims
25 concerning the existence of supportive relationships;
26 providing for the effective date of a reduction or

27 termination of an alimony award; providing that the
28 remarriage of an alimony obligor is not a substantial
29 change in circumstance; providing that the financial
30 information of a spouse of a party paying or receiving
31 alimony is inadmissible and undiscoverable; providing
32 an exception; providing for modification or
33 termination of an award based on a party's retirement;
34 providing a presumption upon a finding of a
35 substantial change in circumstance; specifying factors
36 to be considered in determining whether to modify or
37 terminate an award based on a substantial change in
38 circumstance; providing for a temporary suspension of
39 an obligor's payment of alimony while his or her
40 petition for modification or termination is pending;
41 providing for an effective date of a modification or
42 termination of an award; providing for an award of
43 attorney fees and costs for unreasonably pursuing or
44 defending a modification of an award; amending s.
45 61.30, F.S.; providing that whenever a combined
46 alimony and child support award constitutes more than
47 a specified percentage of a payor's net income, the
48 child support award be adjusted to reduce the combined
49 total; creating s. 61.192, F.S.; providing for motions
50 to advance the trial of certain actions if a specified
51 period has passed since the initial service on the
52 respondent; providing applicability; providing an

53 effective date.

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55 Be It Enacted by the Legislature of the State of Florida:

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57 Section 1. Section 61.071, Florida Statutes, is amended to
58 read:

59 61.071 Alimony pendente lite; suit money.—In every
60 proceeding for dissolution of the marriage, a party may claim
61 alimony and suit money in the petition or by motion, and if the
62 petition is well founded, the court shall allow a reasonable sum
63 therefor. If a party in any proceeding for dissolution of
64 marriage claims alimony or suit money in his or her answer or by
65 motion, and the answer or motion is well founded, the court
66 shall allow a reasonable sum therefor. After determining there
67 is a need for alimony and that there is an ability pay alimony,
68 the court shall consider the alimony factors in s.
69 61.08(4)(b)1.-14. and make specific written findings of fact
70 regarding the relevant factors that justify an award of alimony
71 under this section. The court may not use the presumptive
72 alimony guidelines in s. 61.08 to calculate alimony under this
73 section.

74 Section 2. Section 61.08, Florida Statutes, is amended to
75 read:

76 61.08 Alimony.—
77 (Substantial rewording of section. See
78 s. 61.08, F.S., for present text.)

79 (1) DEFINITIONS.—As used in this section, unless the
 80 context otherwise requires, the term:

81 (a)1. "Gross income" means recurring income from any
 82 source and includes, but is not limited to:

83 a. Income from salaries.

84 b. Wages, including tips declared by the individual for
 85 purposes of reporting to the Internal Revenue Service or tips
 86 imputed to bring the employee's gross earnings to the minimum
 87 wage for the number of hours worked, whichever is greater.

88 c. Commissions.

89 d. Payments received as an independent contractor for
 90 labor or services, which payments must be considered income from
 91 self-employment.

92 e. Bonuses.

93 f. Dividends.

94 g. Severance pay.

95 h. Pension payments and retirement benefits actually
 96 received.

97 i. Royalties.

98 j. Rental income, which is gross receipts minus ordinary
 99 and necessary expenses required to produce the income.

100 k. Interest.

101 l. Trust income and distributions which are regularly
 102 received, relied upon, or readily available to the beneficiary.

103 m. Annuity payments.

104 n. Capital gains.

- 105 o. Any money drawn by a self-employed individual for
- 106 personal use that is deducted as a business expense, which
- 107 moneys must be considered income from self-employment.
- 108 p. Social security benefits, including social security
- 109 benefits actually received by a party as a result of the
- 110 disability of that party.
- 111 q. Workers' compensation benefits.
- 112 r. Unemployment insurance benefits.
- 113 s. Disability insurance benefits.
- 114 t. Funds payable from any health, accident, disability, or
- 115 casualty insurance to the extent that such insurance replaces
- 116 wages or provides income in lieu of wages.
- 117 u. Continuing monetary gifts.
- 118 v. Income from general partnerships, limited partnerships,
- 119 closely held corporations, or limited liability companies;
- 120 except that if a party is a passive investor, has a minority
- 121 interest in the company, and does not have any managerial duties
- 122 or input, the income to be recognized may be limited to actual
- 123 cash distributions received.
- 124 w. Expense reimbursements or in-kind payments or benefits
- 125 received by a party in the course of employment, self-
- 126 employment, or operation of a business which reduces personal
- 127 living expenses.
- 128 x. Overtime pay.
- 129 y. Income from royalties, trusts, or estates.
- 130 z. Spousal support received from a previous marriage.

131 aa. Gains derived from dealings in property, unless the
 132 gain is nonrecurring.

133 2. "Gross income" does not include:

134 a. Child support payments received.

135 b. Benefits received from public assistance programs.

136 c. Social security benefits received by a parent on behalf
 137 of a minor child as a result of the death or disability of a
 138 parent or stepparent.

139 d. Earnings or gains on retirement accounts, including
 140 individual retirement accounts; except that such earnings or
 141 gains shall be included as income if a party takes a
 142 distribution from the account. If a party is able to take a
 143 distribution from the account without being subject to a federal
 144 tax penalty for early distribution and the party chooses not to
 145 take such a distribution, the court may consider the
 146 distribution that could have been taken in determining the
 147 party's gross income.

148 3.a. For income from self-employment, rent, royalties,
 149 proprietorship of a business, or joint ownership of a
 150 partnership or closely held corporation, the term "gross income"
 151 equals gross receipts minus ordinary and necessary expenses, as
 152 defined in sub-subparagraph b., which are required to produce
 153 such income.

154 b. "Ordinary and necessary expenses," as used in sub-
 155 subparagraph a., does not include amounts allowable by the
 156 Internal Revenue Service for the accelerated component of

157 depreciation expenses or investment tax credits or any other
158 business expenses determined by the court to be inappropriate
159 for determining gross income for purposes of calculating
160 alimony.

161 (b) "Potential income" means income which could be earned
162 by a party using his or her best efforts and includes potential
163 income from employment and potential income from the investment
164 of assets or use of property. Potential income from employment
165 is the income which a party could reasonably expect to earn by
166 working at a locally available, full-time job commensurate with
167 his or her education, training, and experience. Potential income
168 from the investment of assets or use of property is the income
169 which a party could reasonably expect to earn from the
170 investment of his or her assets or the use of his or her
171 property in a financially prudent manner.

172 (c)1. "Underemployed" means a party is not working full-
173 time in a position which is appropriate, based upon his or her
174 educational training and experience, and available in the
175 geographical area of his or her residence.

176 2. A party is not considered "underemployed" if he or she
177 is enrolled in an educational program that can be reasonably
178 expected to result in a degree or certification within a
179 reasonable period, so long as the educational program is:

180 a. Expected to result in higher income within the
181 foreseeable future.

182 b. A good faith educational choice based upon the previous

183 education, training, skills, and experience of the party and the
184 availability of immediate employment based upon the educational
185 program being pursued.

186 (d) "Years of marriage" means the number of whole years,
187 beginning from the date of the parties' marriage until the date
188 of the filing of the action for dissolution of marriage.

189 (2) INITIAL FINDINGS.—When a party has requested alimony
190 in a dissolution of marriage proceeding, before granting or
191 denying an award of alimony, the court shall make initial
192 written findings as to:

193 (a) The amount of each party's monthly gross income,
194 including, but not limited to, the actual or potential income,
195 and also including actual or potential income from nonmarital or
196 marital property distributed to each party.

197 (b) The years of marriage as determined from the date of
198 marriage through the date of the filing of the action for
199 dissolution of marriage.

200 (3) ALIMONY GUIDELINES.—After making the initial findings
201 described in subsection (2), the court shall calculate the
202 presumptive alimony amount range and the presumptive alimony
203 duration range. The court shall make written findings as to the
204 presumptive alimony amount range and presumptive alimony
205 duration range.

206 (a) Presumptive alimony amount range.—The low end of the
207 presumptive alimony amount range shall be calculated by using
208 the following formula:

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 210 (0.0125 x the years of marriage) x the difference between
 211 the monthly gross incomes of the parties

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 213 The high end of the presumptive alimony amount range shall be
 214 calculated by using the following formula:

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 216 (0.020 x the years of marriage) x the difference between
 217 the monthly gross incomes of the parties

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 219 For purposes of calculating the presumptive alimony amount
 220 range, 20 years of marriage shall be used in calculating the low
 221 end and high end for marriages of 20 years or more. In
 222 calculating the difference between the parties' monthly gross
 223 income, the income of the party seeking alimony shall be
 224 subtracted from the income of the other party. If the
 225 application of the formulas to establish a guideline range
 226 results in a negative number, the presumptive alimony amount
 227 shall be \$0. If a court establishes the duration of the alimony
 228 award at 50 percent or less of the length of the marriage, the
 229 court shall use the actual years of the marriage, up to a
 230 maximum of 25 years, to calculate the high end of the
 231 presumptive alimony amount range.

232 (b) Presumptive alimony duration range.—The low end of the
 233 presumptive alimony duration range shall be calculated by using
 234 the following formula:

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0.25 x the years of marriage

The high end of the presumptive alimony duration range shall be calculated by using the following formula:

0.75 x the years of marriage

(4) ALIMONY AWARD.—

(a) Marriages of 2 years or less.—For marriages of 2 years or less, there is a rebuttable presumption that no alimony shall be awarded. The court may award alimony for a marriage with a duration of 2 years or less only if the court makes written findings that there is clear and convincing need for alimony, there is an ability to pay alimony, and that the failure to award alimony would be inequitable. The court shall then establish the alimony award in accordance with paragraph (b).

(b) Marriages of more than 2 years.—Absent an agreement of the parties, alimony shall presumptively be awarded in an amount within the alimony amount range calculated in paragraph (3) (a). Absent an agreement of the parties, alimony shall presumptively be awarded for a duration within the alimony duration range calculated in paragraph (3) (b). In determining the amount and duration of the alimony award, the court shall consider all of the following factors upon which evidence was presented:

1. The financial resources of the recipient spouse,

261 including the actual or potential income from nonmarital or
262 marital property or any other source and the ability of the
263 recipient spouse to meet his or her reasonable needs
264 independently.

265 2. The financial resources of the payor spouse, including
266 the actual or potential income from nonmarital or marital
267 property or any other source and the ability of the payor spouse
268 to meet his or her reasonable needs while paying alimony.

269 3. The standard of living of the parties during the
270 marriage with consideration that there will be two households to
271 maintain after the dissolution of the marriage and that neither
272 party may be able to maintain the same standard of living after
273 the dissolution of the marriage.

274 4. The equitable distribution of marital property,
275 including whether an unequal distribution of marital property
276 was made to reduce or alleviate the need for alimony.

277 5. Both parties' income, employment, and employability,
278 obtainable through reasonable diligence and additional training
279 or education, if necessary, and any necessary reduction in
280 employment due to the needs of an unemancipated child of the
281 marriage or the circumstances of the parties.

282 6. Whether a party could become better able to support
283 himself or herself and reduce the need for ongoing alimony by
284 pursuing additional educational or vocational training along
285 with all of the details of such educational or vocational plan,
286 including, but not limited to, the length of time required and

287 the anticipated costs of such educational or vocational plan.

288 7. Whether one party has historically earned higher or
 289 lower income than the income reflected at the time of trial and
 290 the duration and consistency of income from overtime or
 291 secondary employment.

292 8. Whether either party has foregone or postponed
 293 economic, educational, or employment opportunities during the
 294 course of the marriage.

295 9. Whether either party has caused the unreasonable
 296 depletion or dissipation of marital assets.

297 10. The amount of temporary alimony and the number of
 298 months that temporary alimony was paid to the recipient spouse.

299 11. The age, health, and physical and mental condition of
 300 the parties, including consideration of significant health care
 301 needs or uninsured or unreimbursed health care expenses.

302 12. Significant economic or noneconomic contributions to
 303 the marriage or to the economic, educational, or occupational
 304 advancement of a party, including, but not limited to, services
 305 rendered in homemaking, child care, education, and career
 306 building of the other party, payment by one spouse of the other
 307 spouse's separate debts, or enhancement of the other spouse's
 308 personal or real property.

309 13. The tax consequence of the alimony award.

310 14. Any other factor necessary to do equity and justice
 311 between the parties.

312 (c) Deviation from guidelines.—The court may establish an

313 award of alimony that is outside the presumptive alimony amount
314 or alimony duration ranges only if the court considers all of
315 the factors in paragraph (b) and makes specific written findings
316 concerning the relevant factors that justify that the
317 application of the presumptive alimony amount or alimony
318 duration ranges, as applicable, is inappropriate or inequitable.

319 (d) Order establishing alimony award.—After consideration
320 of the presumptive alimony amount and duration ranges in
321 accordance with paragraphs (3) (a) and (b), and the factors upon
322 which evidence was presented in accordance with paragraph (b),
323 the court may establish an alimony award. An order establishing
324 an alimony award must clearly set forth both the amount and the
325 duration of the award. The court shall also make a written
326 finding that the payor has the financial ability to pay the
327 award.

328 (5) IMPUTATION OF INCOME.—If a party is voluntarily
329 unemployed or underemployed, alimony shall be calculated based
330 on a determination of potential income unless the court makes
331 specific written findings regarding the circumstances that make
332 it inequitable to impute income.

333 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),
334 and (4), the court may make an award of nominal alimony in the
335 amount of \$1 per year if, at the time of trial, a party who has
336 traditionally provided the primary source of financial support
337 to the family temporarily lacks the ability to pay support but
338 is reasonably anticipated to have the ability to pay support in

339 the future. The court may also award nominal alimony for an
 340 alimony recipient that is presently able to work but for whom a
 341 medical condition with a reasonable degree of medical certainty
 342 may inhibit or prevent his or her ability to work during the
 343 duration of the alimony period. The duration of the nominal
 344 alimony shall be established within the presumptive durational
 345 range based upon the length of the marriage subject to the
 346 alimony factors in paragraph (4) (b). Before the expiration of
 347 the durational period, nominal alimony may be modified in
 348 accordance with s. 61.14 as to amount to a full alimony award
 349 using the alimony guidelines and factors in accordance with s.
 350 61.08.

351 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

352 (a) Unless otherwise stated in the judgment or order for
 353 alimony or in an agreement incorporated thereby, alimony shall
 354 be deductible from income by the payor under s. 215 of the
 355 Internal Revenue Code and includable in the income of the payee
 356 under s. 71 of the Internal Revenue Code.

357 (b) When making a judgment or order for alimony, the court
 358 may, in its discretion after weighing the equities and tax
 359 efficiencies, order alimony be nondeductible from income by the
 360 payor and nonincludable in the income of the payee.

361 (c) The parties may, in a marital settlement agreement,
 362 separation agreement, or related agreement, specifically agree
 363 in writing that alimony be nondeductible from income by the
 364 payor and nonincludable in the income of the payee.

365 (8) MAXIMUM COMBINED AWARD.—In no event shall a combined
366 award of alimony and child support constitute more than 55
367 percent of the payor's net income, calculated without any
368 consideration of alimony or child support obligations.

369 (9) SECURITY OF AWARD.—To the extent necessary to protect
370 an award of alimony, the court may order any party who is
371 ordered to pay alimony to purchase or maintain a decreasing term
372 life insurance policy or a bond, or to otherwise secure such
373 alimony award with any other assets that may be suitable for
374 that purpose, in an amount adequate to secure the alimony award.
375 Any such security may be awarded only upon a showing of special
376 circumstances. If the court finds special circumstances and
377 awards such security, the court must make specific evidentiary
378 findings regarding the availability, cost, and financial impact
379 on the obligated party. Any security may be modifiable in the
380 event that the underlying alimony award is modified and shall be
381 reduced in an amount commensurate with any reduction in the
382 alimony award.

383 (10) TERMINATION OF AWARD.—An alimony award shall
384 terminate upon the death of either party or the remarriage of
385 the obligee.

386 (11) (a) PAYMENT OF AWARD.—With respect to an order
387 requiring the payment of alimony entered on or after January 1,
388 1985, unless paragraph (c) or paragraph (d) applies, the court
389 shall direct in the order that the payments of alimony be made
390 through the appropriate depository as provided in s. 61.181.

391 (b) With respect to an order requiring the payment of
392 alimony entered before January 1, 1985, upon the subsequent
393 appearance, on or after that date, of one or both parties before
394 the court having jurisdiction for the purpose of modifying or
395 enforcing the order or in any other proceeding related to the
396 order, or upon the application of either party, unless paragraph
397 (c) or paragraph (d) applies, the court shall modify the terms
398 of the order as necessary to direct that payments of alimony be
399 made through the appropriate depository as provided in s.
400 61.181.

401 (c) If there is no minor child, alimony payments need not
402 be directed through the depository.

403 (d)1. If there is a minor child of the parties and both
404 parties so request, the court may order that alimony payments
405 need not be directed through the depository. In this case, the
406 order of support shall provide, or be deemed to provide, that
407 either party may subsequently apply to the depository to require
408 that payments be made through the depository. The court shall
409 provide a copy of the order to the depository.

410 2. If subparagraph 1. applies, either party may
411 subsequently file with the clerk of the court a verified motion
412 alleging a default or arrearages in payment stating that the
413 party wishes to initiate participation in the depository
414 program. The moving party shall copy the other party with the
415 motion. No later than fifteen days after filing the motion, the
416 court shall conduct an evidentiary hearing establishing the

417 default and arrearages, if any, and issue an order directing the
 418 clerk of the circuit court to establish, or amend an existing,
 419 Family Law Case History account, and further advising the
 420 parties that future payments shall thereafter be directed
 421 through the depository.

422 3. In IV-D cases, the Title IV-D agency shall have the
 423 same rights as the obligee in requesting that payments be made
 424 through the depository.

425 Section 3. Subsection (1) of section 61.14, Florida
 426 Statutes, is amended to read:

427 61.14 Enforcement and modification of support,
 428 maintenance, or alimony agreements or orders.—

429 (1) (a) When the parties enter into an agreement for
 430 payments for, or instead of, support, maintenance, or alimony,
 431 whether in connection with a proceeding for dissolution or
 432 separate maintenance or with any voluntary property settlement,
 433 or when a party is required by court order to make any payments,
 434 and the circumstances or the financial ability of either party
 435 changes or the child who is a beneficiary of an agreement or
 436 court order as described herein reaches majority after the
 437 execution of the agreement or the rendition of the order, either
 438 party may apply to the circuit court of the circuit in which the
 439 parties, or either of them, resided at the date of the execution
 440 of the agreement or reside at the date of the application, or in
 441 which the agreement was executed or in which the order was
 442 rendered, for an order decreasing or increasing the amount of

443 support, maintenance, or alimony, and the court has jurisdiction
 444 to make orders as equity requires, with due regard to the
 445 changed circumstances or the financial ability of the parties or
 446 the child, decreasing, increasing, or confirming the amount of
 447 separate support, maintenance, or alimony provided for in the
 448 agreement or order. A party is entitled to pursue an immediate
 449 modification of alimony if the actual income earned by the other
 450 party exceeds, by at least 10 percent, the amount imputed to
 451 that party at the time the existing alimony award was determined
 452 and such circumstance shall constitute a substantial change in
 453 circumstances sufficient to support a modification of alimony.
 454 However, an increase in an alimony obligor's income alone does
 455 not constitute a basis for a modification to increase alimony
 456 unless at the time the alimony award was established it was
 457 determined that the obligor was underemployed or unemployed and
 458 the court did not impute income to that party at his or her
 459 maximum potential income. If an alimony obligor becomes
 460 involuntarily underemployed or unemployed for a period of 6
 461 months following the entry of the last order requiring the
 462 payment of alimony, the obligor is entitled to pursue an
 463 immediate modification of his or her existing alimony
 464 obligations and such circumstance shall constitute a substantial
 465 change in circumstance sufficient to support a modification of
 466 alimony. A finding that medical insurance is reasonably
 467 available or the child support guidelines schedule in s. 61.30
 468 may constitute changed circumstances. Except as otherwise

469 provided in s. 61.30(11)(c), the court may modify an order of
 470 support, maintenance, or alimony by increasing or decreasing the
 471 support, maintenance, or alimony retroactively to the date of
 472 the filing of the action or supplemental action for modification
 473 as equity requires, giving due regard to the changed
 474 circumstances or the financial ability of the parties or the
 475 child.

476 (b)1. The court may reduce or terminate an award of
 477 alimony upon specific written findings by the court that since
 478 the granting of a divorce and the award of alimony a supportive
 479 relationship exists or has existed within the previous year
 480 before the date of the filing of the petition for modification
 481 or termination between the obligee and another a person ~~with~~
 482 ~~whom the obligee resides. On the issue of whether alimony should~~
 483 ~~be reduced or terminated under this paragraph, the burden is on~~
 484 ~~the obligor to prove by a preponderance of the evidence that a~~
 485 ~~supportive relationship exists.~~

486 2. In determining whether an existing award of alimony
 487 should be reduced or terminated because of an alleged supportive
 488 relationship between an obligee and a person who is not related
 489 by consanguinity or affinity and ~~with whom the obligee resides,~~
 490 the court shall elicit the nature and extent of the relationship
 491 in question. The court shall give consideration, without
 492 limitation, to circumstances, including, but not limited to, the
 493 following, in determining the relationship of an obligee to
 494 another person:

495 a. The extent to which the obligee and the other person
496 have held themselves out as a married couple by engaging in
497 conduct such as using the same last name, using a common mailing
498 address, referring to each other in terms such as "my spouse"
499 ~~"my husband" or "my wife,"~~ or otherwise conducting themselves in
500 a manner that evidences a permanent supportive relationship.

501 b. The period of time that the obligee has resided with
502 the other person in a permanent place of abode.

503 c. The extent to which the obligee and the other person
504 have pooled their assets or income or otherwise exhibited
505 financial interdependence.

506 d. The extent to which the obligee or the other person has
507 supported the other, in whole or in part.

508 e. The extent to which the obligee or the other person has
509 performed valuable services for the other.

510 f. The extent to which the obligee or the other person has
511 performed valuable services for the other's company or employer.

512 g. Whether the obligee and the other person have worked
513 together to create or enhance anything of value.

514 h. Whether the obligee and the other person have jointly
515 contributed to the purchase of any real or personal property.

516 i. Evidence in support of a claim that the obligee and the
517 other person have an express agreement regarding property
518 sharing or support.

519 j. Evidence in support of a claim that the obligee and the
520 other person have an implied agreement regarding property

521 | sharing or support.

522 | k. Whether the obligee and the other person have provided
523 | support to the children of one another, regardless of any legal
524 | duty to do so.

525 | 1. Whether the obligor's failure, in whole or in part, to
526 | comply with all court-ordered financial obligations to the
527 | obligee constituted a significant factor in the establishment of
528 | the supportive relationship.

529 | m. The need and extent to which an obligee provides
530 | caretaking assistance to a person related by consanguinity with
531 | whom the obligee resides, or receives caretaking assistance from
532 | that person.

533 | 3. In any proceeding to modify an alimony award based upon
534 | a supportive relationship, the obligor has the burden of proof
535 | to establish, by a preponderance of the evidence, that a
536 | supportive relationship exists or has existed within the
537 | previous year before the date of the filing of the petition for
538 | modification or termination. The obligor is not required to
539 | prove cohabitation of the obligee and the third party.

540 | 4. Notwithstanding paragraph (f), if a reduction or
541 | termination is granted under this paragraph, the reduction or
542 | termination is retroactive to the date of filing of the petition
543 | for reduction or termination.

544 | ~~5.3.~~ This paragraph does not abrogate the requirement that
545 | every marriage in this state be solemnized under a license, does
546 | not recognize a common law marriage as valid, and does not

547 recognize a de facto marriage. This paragraph recognizes only
 548 that relationships do exist that provide economic support
 549 equivalent to a marriage and that alimony terminable on
 550 remarriage may be reduced or terminated upon the establishment
 551 of equivalent equitable circumstances as described in this
 552 paragraph. The existence of a conjugal relationship, though it
 553 may be relevant to the nature and extent of the relationship, is
 554 not necessary for the application of the provisions of this
 555 paragraph.

556 (c)1. For purposes of this section, the remarriage of an
 557 alimony obligor does not constitute a substantial change in
 558 circumstance or a basis for a modification of alimony.

559 2. The financial information, including, but not limited
 560 to, information related to assets and income, of a subsequent
 561 spouse of a party paying or receiving alimony is inadmissible
 562 and may not be considered as a part of any modification action
 563 unless a party is claiming that his or her income has decreased
 564 since the marriage. If a party makes such a claim, the financial
 565 information of the subsequent spouse is discoverable and
 566 admissible only to the extent necessary to establish whether the
 567 party claiming that his or her income has decreased is diverting
 568 income or assets to the subsequent spouse that might otherwise
 569 be available for the payment of alimony. However, this
 570 subparagraph may not be used to prevent the discovery of or
 571 admissibility in evidence of the income or assets of a party
 572 when those assets are held jointly with a subsequent spouse.

573 This subparagraph is not intended to prohibit the discovery or
574 admissibility of a joint tax return filed by a party and his or
575 her subsequent spouse in connection with a modification of
576 alimony.

577 (d)1. An obligor may file a petition for modification or
578 termination of an alimony award based upon his or her actual
579 retirement.

580 a. A substantial change in circumstance is deemed to exist
581 if:

582 (I) The obligor has reached the age for eligibility to
583 receive full retirement benefits under s. 216 of the Social
584 Security Act, 42 U.S.C. s. 416 and has retired; or

585 (II) The obligor has reached the customary retirement age
586 for his or her occupation and has retired from that occupation.
587 An obligor may file an action within 1 year of his or her
588 anticipated retirement date and the court shall determine the
589 customary retirement date for the obligor's profession. However,
590 a determination of the customary retirement age is not an
591 adjudication of a petition for a modification of an alimony
592 award.

593 b. If an obligor voluntarily retires before reaching any
594 of the ages described in sub-subparagraph a., the court shall
595 determine whether the obligor's retirement is reasonable upon
596 consideration of the obligor's age, health, and motivation for
597 retirement and the financial impact on the obligee. A finding of
598 reasonableness by the court shall constitute a substantial

599 change in circumstance.

600 2. Upon a finding of a substantial change in circumstance,
 601 there is a rebuttable presumption that an obligor's existing
 602 alimony obligation shall be modified or terminated. The court
 603 shall modify or terminate the alimony obligation, or make a
 604 determination regarding whether the rebuttable presumption has
 605 been overcome, based upon the following factors applied to the
 606 current circumstances of the obligor and obligee:

- 607 a. The age of the parties.
- 608 b. The health of the parties.
- 609 c. The assets and liabilities of the parties.
- 610 d. The earned or imputed income of the parties as provided
 611 in s. 61.08(1)(a) and (5).
- 612 e. The ability of the parties to maintain part-time or
 613 full-time employment.
- 614 f. Any other factor deemed relevant by the court.

615 3. The court may temporarily reduce or suspend the
 616 obligor's payment of alimony while his or her petition for
 617 modification or termination under this paragraph is pending.

618 (e) A party who unreasonably pursues or defends an action
 619 for modification of alimony shall be required to pay the
 620 reasonable attorney fees and costs of the prevailing party.
 621 Further, a party obligated to pay prevailing party attorney fees
 622 and costs in connection with unreasonably pursuing or defending
 623 an action for modification is not entitled to an award of
 624 attorney fees and cost in accordance with s. 61.16.

625 (f) There is a rebuttable presumption that a modification
 626 or termination of an alimony award is retroactive to the date of
 627 the filing of the petition, unless the obligee demonstrates that
 628 the result is inequitable.

629 (g)~~(e)~~ For each support order reviewed by the department
 630 as required by s. 409.2564(11), if the amount of the child
 631 support award under the order differs by at least 10 percent but
 632 not less than \$25 from the amount that would be awarded under s.
 633 61.30, the department shall seek to have the order modified and
 634 any modification shall be made without a requirement for proof
 635 or showing of a change in circumstances.

636 (h)~~(d)~~ The department may ~~shall have authority to~~ adopt
 637 rules to implement this section.

638 Section 4. Paragraph (d) is added to subsection (11) of
 639 section 61.30, Florida Statutes, to read:

640 61.30 Child support guidelines; retroactive child
 641 support.—

642 (11)

643 (d) Whenever a combined alimony and child support award
 644 constitutes more than 55 percent of the payor's net income,
 645 calculated without any consideration of alimony or child support
 646 obligations, the court shall adjust the award of child support
 647 to ensure that the 55 percent cap is not exceeded.

648 Section 5. Section 61.192, Florida Statutes, is created to
 649 read:

650 61.192 Advancing trial.—In an action brought pursuant to

651 this chapter, if more than 2 years have passed since the initial
652 petition was served on the respondent, either party may move the
653 court to advance the trial of their action on the docket. This
654 motion may be made at any time after 2 years have passed since
655 the petition was served, and once made the court must give the
656 case priority on the court's calendar.

657 Section 6. The amendments made by this act to chapter 61,
658 Florida Statutes, with the exception of amendments relating to
659 the calculation of the duration of an alimony award, apply to
660 all alimony modification petitions pending as of the effective
661 date of this act and to all alimony modification petitions filed
662 on or after the effective date of this act. The changes to the
663 law made by this act do not constitute a substantial change in
664 circumstances and may not serve as the sole basis to seek a
665 modification of an alimony award made before the effective date
666 of this act.

667 Section 7. This act shall take effect October 1, 2015.